

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, February 5, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor (Steve Duvall and Roger Larson absent); Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Duncan Ross, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held January 22, 2003. Newman moved to approve the minutes, seconded by Krieser and carried 5-0: Carlson, Krieser, Newman, Steward and Taylor voting 'yes'; Schwinn and Bills-Strand abstaining; Duvall and Larson absent.

There was no Consent Agenda.

COUNTY CHANGE OF ZONE NO. 211
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
COUNTY PRELIMINARY PLAT NO. 02029
THE PRESERVE ON CROSS CREEK
ON PROPERTY GENERALLY LOCATED
AT SOUTH 68TH STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Duvall and Larson absent.

Staff recommendation: Deferral

The Clerk announced that the record consists of one letter in opposition.

Mike DeKalb of Planning staff submitted a second letter in opposition. The objections are that the property consists of low land, floodplain, native prairie, natural habitat and wildlife. Cattle are being pastured to the east of the property; the soil is quite productive and fertile; development will impact traffic on the roads, etc.

Proponents

1. Brian Carstens appeared on behalf of the developer, **Land II**, for this change of zone from AG to AGR to allow 15 acreage lots, ranging in size from 3 to 8 acres. Floodplain does run through the middle of the site. All of the lots are proposed to back up to the existing creek and crossing at only two locations. This development is preserving the floodplain and existing wooded areas without building envelopes. The lots will be served with rural water and will pay all costs associated with the water line installation. Paved county roads will be installed and individual septic systems will be used. The existing farmstead in the corner has been split out and is outside the limits of the plat. The applicant believes this to be an appropriate use for the property. Home Real Estate has developed 160 acres of acreage lots to the south and east, which have marketed extremely well.

Carstens noted that the staff is recommending deferral until June. He indicated that this developer had been waiting to see if any progress is being made toward the Comprehensive Plan study reports but chose to proceed to submit this application because no action has been seen on these studies.

Carstens suggested that waiting a few months is not going to tell us anything new. This development is using rural water; the property accesses paved roads; the County will improve So. 68th Street; it is not prime agricultural land; there are acreages in the area; there are no conflicting farm uses; and this proposal preserves the wooded areas and floodplain on the site except for the two roadway crossings.

Schwinn inquired whether there will be covenants. Brian indicated that the information will be on the site plan and the final plat since this is not a community unit plan.

Newman noted that this proposal does not conform with the Hickman Comprehensive Plan.

Steward asked the applicant to classify what he means when he says that there are no conflicting "agricultural uses". Carstens referred to cattle feeding and confinement areas and hog feeding.

2. Dan Kubr, one of the developers, testified in support. He attended the Hickman City Council meeting when they read the letter about this project, and the Hickman City Council agreed not to comment. The conversation they had was that one of the concerns in that area is the fact that as Lincoln grows, the Lincoln Public School District grows with it. This is a big

concern to Norris School District. The property tax base for Norris School is eroding and will erode as Lincoln continues to grow to the south, and he believes developments like this will help that tax base.

Kubr also pointed out he has been a supporter of the South Beltway, his home being located about 300' from the proposed Beltway. He has gone to numerous meetings and they were constantly told that they would get the results of studies but yet we are waiting 10 years to realize that. He is fearful the Comprehensive Plan studies will be delayed or amended and he would prefer to move forward. If the study brings out issues, they can work on those at the time. Time is short and with the economy, Kubr believes there is a need to take advantage of the opportunities.

With regard to 68th Street, Kubr believes it is scheduled for improvements. Having this proposed development on a road slated for improvements rather than on a country road would seem to be an attribute.

Opposition

1. Bruce Kuster, Hickman, Nebraska, a neighboring land owner, testified in opposition. His family has been in this part of the county since 1884. He has read a lot of the Comprehensive Plan and it provides that the native prairies, wetlands and floodplains should be preserved. 68% of this property is native grassland. The wetland is on the western part. A good portion is in the floodplain. It seems obvious that this property should not be developed but kept in its natural state. Kuster passed photographs around to illustrate the natural grassland. 68% of this property has never been farmed. It is native grass and has been used as a pasture. The grasses are indicative of a wetland. Why would the county want to maintain roads that have a chance of being flooded? If you build roads over a wetland, it can undermine the road with seepage. The farmer who farmed the subject property could not get to the southwest eight acres of farmland because of the wetland. This property is surrounded by farms. The acreages referred to are 1/4 mile south. Every land bordering this property is farm ground and is a natural habitat for wildlife. There are many other places that would be far better to build houses than to disturb this natural environment.

Kuster also recalled that in the Comprehensive Plan it says that development is preferred in the City and in the towns—not throughout the county. “We want to preserve rural life and we want to preserve farm land.” Kuster stressed that this is good soil. The topsoil still exists because it has not been farmed.

Kuster stated that he has talked to quite a number of people in this area and they do not want to see any more of these developments. It causes more homes to be protected by Hickman Fire and the Lancaster County Sheriff, and causes Norris School to grow, increasing the taxes for everyone living in the area. The residents will work and play in Lincoln. The businesses in our nearby towns and the churches are not growing from these acreage residents.

2. Paul Johnson, 16900 So. 72nd Street, who lives in an acreage development south and east of this proposal, testified in opposition. His concern is traffic. We talk about improving 68th Street, but we develop the property before we improve the road. We need to get the roads improved first. 68th Street has no turning lanes and no shoulders. Plus, there are bikers using that road. Where this proposed development dumps into 68th Street, it is in the valley of a hill and the traffic is going 60-65 mph, and there is no way you can stop and negotiate if a car comes out onto the road. Johnson believes that the roads should be improved before the property is developed.

Staff questions

Steward asked staff to respond to the timing of the Comprehensive Plan studies. Mike DeKalb stated that relative to acreages, specifically the point system, that study will be done in-house by staff and there is a working draft that is being discussed with the County Board. It is anticipated that this point system will be done by June. The staff would also like to coordinate the point system with the other two studies, one of which is under contract and we are close to having a contract on the other.

Schwinn asked staff to explain the 68th Street improvements. DeKalb explained that 68th Street will be rebuilt by the County Engineer. The County Engineer wants to work with the applicant to coordinate the new grades. At the present time, it is two-lane blacktop with gravel shoulders and steep drop-offs. They will widen the road and some of the cuts and hills will be leveled.

Carlson recalled that the Comprehensive Plan shows acreages in specific areas in order to create the lifestyle and service them better. The purpose of the study was to come up with the point system to show areas that are exceptional or that might be more suitable for acreages. The benefit of waiting for the point system is that it may show an area that was not designated previously. DeKalb concurred that the point system would allow every parcel to be reviewed on its own particular merits. This application could then be rated against that system.

Response by the Applicant

Carstens advised that 68th Street is scheduled for improvement in 2004. If this application is approved, occupancy would probably not occur until late winter of this year, and not all 15 houses would be built at that time. The proposal is only 15 lots. Under AGR with a community

unit plan, up to 30 dwelling units could be built. Therefore, this proposal seeks half of what could be developed in order to preserve the floodplain and natural wooded areas.

Kubr suggested that in the County, typically the road does not get improved until it is needed. He has lived on Saltillo Road for 21 years. At that time, it was to be paved past his house and this has not occurred because the growth is not there that was anticipated. It is just not a practice in this area to improve roads before they are needed.

With regard to the two places where the development crosses the creek, Schwinn inquired whether the applicant is doing anything in terms of retention at those points. Carstens advised that there will be culverts that will pass the 100 year storm. Those roads will not be flooded at all. This is basically the top of the floodplain.

Schwinn inquired whether there is anything in the covenants that would require preservation of the tree masses. Carstens suggested that the Planning Commission could require some type of preservation or conservation easement on the bottom areas, if they so desired, and the applicant would not object.

Public hearing was closed.

COUNTY CHANGE OF ZONE NO. 211

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 5, 2003

Steward moved to agree with the staff recommendation of deferral, until completion of the pertinent Comprehensive Plan studies, seconded by Newman.

Steward stated that this is a difficult issue and one yet to be resolved. He believes it is in the public interest for us to do a better job than we have done on acreages in the county. We couldn't resolve it during the course of the Comprehensive Plan debate; we now have studies underway that will hopefully bring some logical and rational evaluation tools to the process; and he believes it would be a mistake, being this close to having those tools, to move forward. If the property were adjacent to another development or if it were twice this large or in any other location in the county, he would feel the same way. It is a matter of county-wide planning principle.

Newman is concerned because the proposal is not in conformance with our own Comprehensive Plan nor the Hickman Comprehensive Plan. It is in the floodplain. Her dilemma is whether to vote deferral or denial. She wants Hickman to buy into this. She also has a problem because of the letter in opposition stating that the farmers are getting pushed out. She does not know how to resolve that.

Schwinn stated that he will vote against deferral. He believes that when the point system and studies come forward, a site like this will score very high, and if it doesn't, there is something wrong with the plan. This property is already on a major transportation corridor and we should utilize that. It was mentioned that it would cost the Norris School District—Schwinn believes that Lincoln eating into the Norris School District costs far more than adding 15 houses on So. 68th Street. Norris will be looking for tax base to pay for their schools as is. With regard to preservation of this land, Schwinn pointed out that very little of this land is farmable and the better way to preserve is to put the preservation in the hands of landowners that can afford to preserve it. Developing single family residences in there, with covenants to preserve the existing tree mass and floodplain, is going to do far more to preserve this land than any other thing that can happen.

Krieser agreed with Schwinn.

Motion to defer carried 4-3: Carlson, Newman, Bills-Strand and Steward voting 'yes'; Krieser, Taylor and Schwinn voting 'no'; Duvall and Larson absent.

COUNTY PRELIMINARY PLAT NO. 02029
THE PRESERVE ON CROSS CREEK
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 5, 2003

Steward moved to defer until completion of the pertinent Comprehensive Plan studies, seconded by Newman and carried 5-2: Carlson, Newman, Taylor, Bills-Strand and Steward voting 'yes'; Krieser and Schwinn voting 'no'; Duvall and Larson absent.

COMPREHENSIVE PLAN CONFORMANCE NO. 03000
TO REVIEW THE PROPOSED EXCHANGE OF LAND FOR
AN L.E.S. SUBSTATION ON PROPERTY GENERALLY
LOCATED AT YANKEE HILL ROAD AND
NEBRASKA HIGHWAY 2.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Proponents

1. Charlie Humble, of Erickson & Sederstrom, appeared on behalf of the applicant, **Lincoln Electric System**, to answer any questions.

The Commissioners did not have any questions.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 5, 2003

Bills-Strand moved a finding of conformance with the Comprehensive Plan, seconded by Carlson and carried 7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Larson and Duvall absent.

ANNEXATION NO. 02010;
CHANGE OF ZONE NO. 3390
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL;
SPECIAL PERMIT NO. 1995,
HUB HALL HEIGHTS COMMUNITY UNIT PLAN;
and
PRELIMINARY PLAT NO. 02025,
HUB HALL HEIGHTS,
ON PROPERTY GENERALLY LOCATED
AT N.W. 48TH STREET AND W. HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: Approval of the annexation, subject to an Annexation Agreement; approval of the change of zone and conditional approval of the community unit plan and preliminary plat.

Becky Horner of the Planning staff submitted a letter from Barbara Erickson, an adjacent property owner, requesting deferral for two weeks to review the application with the developer. She is also asking for a condition of approval that NW 40th not be extended north along the east property line of the development from W. Holdrege Street.

Horner also submitted a letter from Lyle Loth, on behalf of the developer, also requesting a two week deferral in order to advertise an additional waiver of the extension of N.W. 40th Street on the preliminary plat.

Steward moved deferral for two weeks, with continued public hearing and administrative action scheduled for February 19, 2002, seconded by Carlson and carried 7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Duvall and Larson absent.

There was no testimony in support nor in opposition.

SPECIAL PERMIT NO. 2000
FOR AUTHORITY TO SELL ALCOHOL
FOR CONSUMPTION ON THE PREMISES,
ON PROPERTY GENERALLY LOCATED
AT 35TH AND CORNHUSKER HIGHWAY.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: Conditional approval of the special permit; however, denial of the waiver of the parking lot paving.

The Clerk advised that the record consists of three letters in opposition and four letters in support.

Brian Will of Planning staff submitted one additional letter in support from a property owner in the area.

Proponents

1. Janet Crosby, 5414 Valley Forge Road, the applicant, provided an overview of the business conducted on the subject property. The primary function is to provide a location where families will gather to celebrate special events, such as a large wedding reception or small anniversary or birthday celebrations, which may or may not require the use of the liquor license. Other business meetings and charitable events are a possibility.

Crosby advised that this building has operated as a social hall for the last nine years and she wants to continue this use. After learning about the special permit requirement she has worked diligently with the staff to be in compliance with the rules and regulations. As with any new business, she is trying to forecast long term goals. She does not believe the gravel parking lot is a noise or dust issue for surrounding business or home owners as it has been used in that manner for nine years. It would be a financial burden to have to pave the parking lot. There are surrounding businesses that have submitted letters in support which do not oppose the waiver of the paving. Crosby requested that the Commission grant the special

permit and the waiver of the paving requirement to allow her the opportunity to start the business and to begin to acquire enough capital to complete that requirement. She will do her very best always to be in compliance with all city and state liquor laws and regulations.

Bills-Strand inquired as to how many functions will require the liquor license. Crosby has just taken over the business and she did not know how many events occurred previously. She does have six events booked for the coming year that would need this special permit.

Staff questions

Taylor asked staff to explain the problem with the dust and gravel. Will explained that there are several provisions within the special permit section of the ordinance, one being the requirement that special permits for on-sale provide parking in compliance with the ordinance. It is a requirement of the zoning ordinance and design standards that parking areas be paved. One of the concerns with unpaved lots is dust and other potential nuisances associated with it. The requirement to pave the parking lot comes from the City of Lincoln Design Standards.

Schwinn noted that the site plan shows that this applicant is only using the northeast quarter of the site. Will concurred. There is a driveway connection to 33rd Street to the west. There is a mixture of industrial uses in the area plus a mobile home court to the east. North of Cornhusker Highway, between 33rd and 35th Streets, is generally commercial and light industrial uses, with the exception of the mobile home park which is in the I-1 district.

Carlson inquired as to the time limit for installation of the improvements. Will explained that when the applicant submits plans for the building permit for occupancy, it would be required at that time to have the required improvements in place. If the parking lot waiver is not approved, it would be a condition of this special permit that the parking lot be installed and paved.

Schwinn suggested that the paving would only have to be blacktop. Will responded, stating that the paving would need to comply with the city standards that are in place.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 5, 2003

Steward moved approval of staff recommendation of conditional approval, and denial of the waiver of paving, seconded by Taylor.

Steward believes this is a matter that is of public record. The standards are well-known and easily researched and he believes it is the owner's responsibility.

Newman believes there is a big difference between a business on the corner with homes behind it. This is a case, once again, where we have a street separating this from residences. She concurred that it is not closer than 100', but there is still a difference between this and some cases reviewed in the past where it is on the corner and backs onto a house.

Schwinn pointed out that the housing is in the I-1 district and in his opinion, the housing is therefore a nonconforming use.

Motion for conditional approval, with denial of the waiver of parking lot paving, carried 6-1: Carlson, Newman, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Krieser voting 'no'; Duvall and Larson absent.

STREET & ALLEY VACATION NO. 02017
TO VACATE THE NORTH-SOUTH ALLEY
GENERALLY LOCATED AT 7TH & HATCH STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: Conditional approval.

Proponents

1. Jack Wolf, 830 Wells Fargo Center, appeared on behalf of the applicant. Wolf requested that the Commission delete Condition #1.2, which requires a second petition to vacate the east/west alley prior to scheduling this petition on to the City Council. The vacation petition before the Commission is for the north/south alley that then abuts an alley that the staff would like to have considered at the same time. Midwest Pump made several efforts to work with LPS, the property owner abutting that alley to the north, and LPS did not want to have anything to do with it. In fact, LPS has fenced in that alley.

Wolf noted that #6 of the staff analysis states that this vacation "...will disrupt the existing street pattern by creating a situation where a dedicated alley cannot be accessed from a street or alley." Wolf took issue with this analysis. He does not know what staff is referring to. The alley which his client is seeking to vacate abuts vacated Hatch Street. It does not abut an open alleyway or street. Wolf requested that the Commission approve this vacation and move it forward. This petition was filed in December of 2001, and is just now before the Commission.

There was no testimony in opposition.

Carlson inquired whether the staff has heard anything from LPS. Greg Czaplewski of Planning staff advised that initially, when this was before the Commission, the staff had requested deferral because the proposed vacation did not conform with the Comprehensive Plan as it would leave the east/west alley without access. The staff was hoping to get a petition for vacation of that east/west alley in place so that both could be advanced to the City Council at the same time. The petition to vacate the east/west alley has been submitted and is in process. The staff is comfortable with moving this forward, but this vacation would not be scheduled at Council until both alley vacations can be presented together.

Schwinn noted that all of the property on the other alley is going to go to LPS. Czaplewski concurred.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 5, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #1.2, as requested by the applicant, seconded by Krieser and carried 7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Duvall and Larson absent.

STREET & ALLEY VACATION NO. 02018

TO VACATE NO. 69TH STREET

GENERALLY LOCATED AT No. 69th STREET AND LOGAN AVENUE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 5, 2003

This application was withdrawn by the petitioner on February 4, 2003.

WAIVER OF DESIGN STANDARDS NO. 02023

TO WAIVE STREET TREES, STREET LIGHTS, SIDEWALKS,

PAVING AND FLOODPLAIN REQUIREMENTS,

ON PROPERTY GENERALLY LOCATED

AT 7TH & "N" STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: Approval.

Greg Czaplewski of Planning staff reminded the Commission that this waiver request was previously deferred due to the request for an additional waiver. These waivers are associated with an administrative final plat. The applicant has since submitted a revised application for the administrative final plat and the boundaries have changed. Therefore, the boundaries of the waiver request have also changed. Czaplewski requested that this waiver request be placed on the Planning Commission's pending list.

Motion to place on pending was made by Carlson, seconded by Krieser and carried 7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Larson and Duvall absent.

There being no further business, the meeting was adjourned at 1:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on February 19, 2003.